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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/474,671	12/29/1999	CASSANDRA J. MOLLETT	FDC-0149-PUS	2544

22045 7590 05/05/2006

BROOKS KUSHMAN P.C.
1000 TOWN CENTER
TWENTY-SECOND FLOOR
SOUTHFIELD, MI 48075

EXAMINER

RUDY, ANDREW J

ART UNIT	PAPER NUMBER
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3627

DATE MAILED: 05/05/2006

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 09/474,671
Filing Date: December 29, 1999
Appellant(s): MOLLETT ET AL.

Mark D. Chuey, Ph.D.
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed March 12, 2004 appealing from the Office action mailed December 19, 2003. The previous Examiners Answer is vacated.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

The appellant's statement of the status of amendments after final rejection contained in the brief is correct.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Issues

The appellant's statement of the issues is correct.

(7) Grouping of Claims

Appellant's Brief includes a statement that claims 1, 2, 4-6 are grouped to stand or fall together; claim 3 stands alone; claim 8 stands alone; and claim 9 stands alone.

(8) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(9) Evidence Relied Upon

6,064,987	WALKER	5-2000
5,679,940	TEMPLETON	10-1997

(10) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 8 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. This rejection is set forth from Paper No. 15.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-6, 8 and 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Walker in view of Templeton. This rejection is set forth from Paper No. 15.

(11) Response to 35 U.S.C. 101 Argument

Claim Rejections - 35 USC § 101

The rejection under 35 U.S.C. 101 of claims 1-6, 9 and 9 from Paper No. 15 is withdrawn.

Response to 35 U.S.C. 112, second paragraph, Argument

Claim Rejections - 35 USC § 112

Applicant's ARGUMENTS regarding the rejection of claim 8 under 35 U.S.C. 112 are noted, but not agreed with.

The Examiner's position is that claim 8 is indefinite. In short, the claim language is not clear as to what is being referenced as "the time period" from line 10 lacks antecedent basis. It is not clear if it is the "one time period" from line 2 or "each of the at least one time period" from lines 5 or 8? The Examiner is not clear as to what is being referenced.

Response to 35 U.S.C. 103, Argument

Claim Rejections - 35 USC § 103

Applicant's ARGUMENTS regarding the rejection of claims 1-6, 8 and 9 under 35 U.S.C. 103 are noted, but not agreed with.

Applicant's assertion that Walker does not show a time period or money limit or check cashing is opposite to Walker's disclosure, e.g. cols. 9-10, lines 54-23. Initially, it is noted that intended use, e.g. "for a time period" recited in claim 1 do not provide positive claim recitations that further limit Applicant's method claims. Nonetheless, the time period in Walker is indirectly referenced when the when the account is in good standing and not past due. To be past due there must be a time period, e.g. a monthly account statement, that the purchaser of the credit must, generally, pay off in total or an appropriate portion thereof, a suitable balance in order to have access to the financial account. It has been common knowledge that time periods are used in both the credit and check cashing industry to facilitate accounting and transaction objectives, e.g. to verify whether a user has a proper credit history and financial resources to cover the requested fund transfer. The electronic credit card purchases disclosed by Walker encompass in broad scope and content the check cashing language recited by Applicant. Apparently, Applicant implies or would have one believe a traditional "paper" check is required from the claim language. No such limitations exists within the claim language. As recited, an electronic check credit card fully meets Applicant's claim language.

Applicant's ARGUMENTS that no attempt to match the recited elements of Applicant's claims to Walker is noted. See Paper No. 15, pages 4-5, for matching limitations that meet in broad scope and content Applicant's claim language.

Similarly, Applicant's assertion that Templeton does not show a checking function on any time period is opposite to Templeton's disclosure. Though Templeton does not explicitly disclose a time period, it would be inherent aspect of Templeton's disclosure. The real-time updating of file information, e.g. 85, 87, of Templeton, fully meets the broad scope and content of Applicant's "time period" referenced. As is, the time period may be as short as a nano-second or as long as a year (or longer) to fully meet Applicant's claim language. In sum, the real-time period parameters disclosed by Templeton fully meet Applicant's claim language.

The assertion that the Examiner robs Applicant of the ability to properly from an argument rebutting obviousness or to narrow the claims around the prior art are subjective comments. However, the Examiner is not in agreement with this assertion.


Regarding subscores from claim 3, the positive file 87 and negative file 85 are deemed in broad scope and content to fully encompass this term. Further, the historical approval criteria data of Walker may be viewed to comprise a subscore. As is, the claim 3 terminology does not define over Walker, as modified by Templeton.

Regarding claim 8, as understood, the historical approval criteria data of Walker may be viewed as meeting the claim terminology for approving a check cashing request for each time period being considered. Thus, claim 8, as understood, does not define over Walker, as modified by Templeton.



Regarding claim 9, the historical approval criteria data of Walker may be viewed as meeting the claim terminology for approving a check cashing request for each time period being considered. Further, allowing a check writer to reach his/her credit limit over a specified time period after having a previous financial transaction has been approved have been common knowledge in check cashing systems. Both the Walker and Templeton systems allow for this function to be performed. Thus, claim 9 does not define over Walker, as modified by Templeton.

For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,


Andrew Joseph Rudy
May 4, 2006

Conferees:

Mr. Robert P. Olszewski 
Mr. Eric Stamber 

Lawrence G. Almeda
Brooks & Cushman PC
1000 Town Center
22nd Floor
Southfield, MI 48075-1351